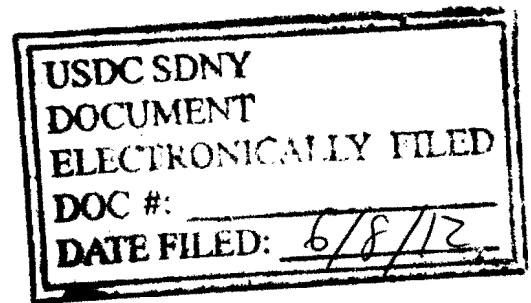


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



-----x
ELENDOW FUND, LLC,

Plaintiff,

– against –

RYE SELECT BROAD MARKET XL
FUND, L.P., et al.,

Defendants.
-----x

10 Civ. 9061 (TPG)

09 md 2052

Master File No.:
08 Civ. 11117 (TPG)

ORDER

There are currently four motions to dismiss the amended complaint in this action filed by plaintiff Elendow Fund, LLC. The amended complaint makes use of allegations concerning the defendants' states of mind, which originally were made in other lawsuits, such as the litigation between defendants and Irving Picard (the "Trustee"), the bankruptcy trustee appointed to liquidate the estate of Bernard L. Madoff Investment Securities ("BLMIS"). These allegations from the Trustee's complaints include quotations and descriptions of various internal emails and other internal documents.


The defendants moved to strike these allegations, arguing that the court may not consider unproven allegations made in other lawsuits. Plaintiff then requested discovery from defendants, seeking copies of the documents previously provided by defendants to the Trustee and referenced by the Trustee in his complaints. Defendants opposed this

request, arguing that the automatic discovery stay of the Private Securities Litigation Reform Act barred these discovery requests.

As discussed at the conference yesterday, the motions to dismiss are denied. Discovery may now proceed in the Elendow action. However, discovery remains stayed, and all motions remain pending, in the other related actions.

SO ORDERED.

Dated: New York, New York
June 8, 2012



Thomas P. Griesa
U.S. District Judge